

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

| | | |
|---------------------------------------|---|----------------------|
| Katherine Herald, n/k/a Lanteri, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 1:12-cv-1678 |
| |) | |
| LVNV Funding, LLC, a Delaware limited |) | |
| Liability company, and Weltman, |) | |
| Weinberg & Reis Co., LPA, an Ohio |) | |
| Legal Professional Association, |) | |
| |) | |
| Defendants. |) | <u>Jury Demanded</u> |

COMPLAINT

Plaintiff, Katherine Herald, n/k/a Lanteri, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a finding that Defendants' form debt collection letter violated the FDCPA, and to recover damages for Defendants' violations of the FDCPA, and alleges:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because: a) the acts and transactions occurred here; b) Plaintiff resides here; and, c) Defendants reside and transact business here.

PARTIES

3. Plaintiff, Katherine Herald, n/k/a Lanteri ("Herald"), is a citizen of the State of Indiana, residing in the Southern District of Indiana, from whom Defendants attempted to collect a delinquent consumer debt, which she allegedly owed originally for

a delinquent GE Capital account.

4. Defendant LVNV Funding, LLC ("LVNV"), is a Delaware limited liability company that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, directly or indirectly, delinquent consumer debts. LVNV operates a nationwide delinquent debt collection business, and attempts to collect debts from consumers in virtually every state, including consumers in the State of Illinois. In fact, Defendant LVNV was acting as a debt collector, as that term is defined in the FDCPA, as to the delinquent consumer debt it attempted to collect from Plaintiff.

5. Defendant, Weltman Weinberg & Reis, Co., LPA ("Weltman"), is an Ohio legal professional association that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or telephone to collect, or attempt to collect, delinquent consumer debts. Weltman operates a nationwide delinquent debt collection business, and attempts to collect debts from consumers in virtually every state, including consumers in the State of Illinois. In fact, Weltman was acting as a debt collector as to the debt it attempted to collect from Ms. Herald.

6. Defendant LVNV is a bad debt buyer that specializes in purchasing large portfolios of defaulted consumer debts, which it then tries to collect upon through other debt collectors, like Defendant Weltman.

7. Defendant LVNV is authorized to conduct business in the State of Indiana and maintains a registered agent within the State of Indiana, see, record from the Indiana Secretary of State, attached as Exhibit A. In fact, Defendants each conduct extensive and substantial business in Indiana.

8. Moreover, Defendant LVNV is licensed as a debt collection agency in the State of Indiana, see, record from the Indiana Secretary of State, Securities Division, attached as Exhibit B. In fact, Defendant LVNV acts as a collection agency in Indiana.

FACTUAL ALLEGATIONS

9. Ms. Herald fell behind on paying her bills, including a debt she allegedly owed for a GE Capital account. At some point in time after that debt became delinquent, Defendants began trying to collect that debt from her by sending her an initial form collection letter, dated July 11, 2012, which stated, in pertinent part, that the letter was:

RE: LVNV FUNDING, LLC
Original Creditor: GE Capital

No explanation was given as to who LVNV was, nor what, if any, was the relationship between it and GE Capital. A copy of this letter is attached as Exhibit C. In fact, Plaintiff subsequently learned that LVNV is the name of the current creditor to whom her GE Capital account was now allegedly owed.

10. Defendants' collection actions complained of herein occurred within one year of the date of this Complaint.

11. Defendants' collection communications are to be interpreted under the "unsophisticated consumer" standard. See, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

Violation Of § 1692g(a)(2) Failure To Identify Effectively The Current Creditor

12. Section 1692g of the FDCPA requires that, within 5 days of Defendants' first communication to a consumer, they had to provide the consumer with an effective

validation notice, containing, among other disclosures, “(2) the name of the creditor to whom the debt is owed;” see, 15 U.S.C. § 1692g(a)(2).

13. Defendants’ letter to Plaintiff failed to state the name of the current creditor effectively because the letter failed to identify who LVNV was and/or what, if any, its relationship was to GE Capital. Without any explanation, a consumer would be confused as to whom the debt was currently owed. Thus, Defendants have failed to state effectively “the name of the creditor to whom the debt is owed”. See, Braatz v. Leading Edge Recovery Solutions, LLC, et al., 2011 U.S. Dist. LEXIS 123118 (N.D. Ill. 2011); Walls v. United Collection Bureau, Inc, et al., 2012 U.S. Dist. LEXIS 68079 (N.D. Ill. 2012).

14. Defendants’ violation of § 1692g of the FDCPA renders them liable for actual and statutory damages, costs, and reasonable attorneys’ fees. See, 15 U.S.C. § 1692k.

PRAYER FOR RELIEF

Plaintiff, Katherine Herald, n/k/a Lanteri, prays that this Court:

1. Find that Defendants’ form collection letter violates the FDCPA;
2. Enter judgment in favor of Plaintiff Herald, and against Defendants, for actual and statutory damages, costs, and reasonable attorneys’ fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff, Katherine Herald, n/k/a Lanteri, demands trial by jury.

Katherine Herald, n/k/a Lanteri,

By: /s/ David J. Philipps
One of Plaintiff's Attorneys

Dated: November 14, 2012

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